

## MINUTES

### CITY PLAN COMMISSION/ARCHITECTURAL REVIEW BOARD

JANUARY 23, 2008

The City Plan Commission/Architectural Review Board of the City of Clayton, Missouri, met upon the above date at 5:30 p.m., Chairman Harold Sanger presiding. Upon roll call, the following responded:

#### Present

Harold Sanger, Chairman  
Steve Lichtenfeld, Aldermanic Representative  
Mike Schoedel, City Manager  
Debbie Igielnik  
Jim Liberman  
Marc Lopata  
Scott Wilson

#### Absent:

None

#### Also Present:

Catherine Powers, Director of Planning & Development Services  
Jason Jaggi, Planner  
Kevin O'Keefe, City Attorney

Chairman Sanger welcomed everyone to the meeting and asked that conversations not take place during the meeting and that all cell phone and pager ringers be turned off.

## MINUTES

The minutes of the regular meeting of January 7<sup>th</sup>, 2008 were presented for approval. The minutes were approved, after having been previously distributed to each member.

### MODIFICATION TO SIGN ORDINANCE/MONUMENT SIGN – 8251-53 PARKSIDE

Mike Reardon, Trivers Associates and Rob Kramer, RJ York, were in attendance at the meeting.

Catherine Powers explained that the subject condominium building which is currently under construction will contain 13 units when complete. The Sign Ordinance allows monument signs up to 12 square feet if the residential building has 20 or more units; therefore, the applicant is requesting a modification to the Sign Ordinance. The sign will be placed in the front yard facing Parkside Drive and positioned to match the centerline of the building. The sign will measure 8.66

square feet including the face and stone cap. The face of the sign will contain routed out letters set within the pre-cast stone panel. The sign will be lit with an external lamp placed on the ground. Catherine indicated that the sign is relatively small in comparison to the building and that its proposed materials are of a high quality and therefore, staff recommends approval with the condition that the applicant apply for a sign permit and that the permit be issued prior to installation.

Chairman Sanger asked if the City's Sign Ordinance does not allow for a ground sign for this size residential building without a modification.

Catherine Powers replied "yes". She stated similar requests for signage have been approved in the past.

Mike Reardon indicated that the proposed sign does not comply with the Ordinance because the building contains only 13 units. He stated that some of the units are very large.

Chairman Sanger asked when the project is expected to be completed.

Mr. Kramer stated they hope to have it completed by July.

Steve Lichtenfeld commented that this sign is similar to the sign around the corner. He stated that he thinks the sign looks nice. He indicated that he thought this building was to contain 14 units.

Mr. Kramer stated that the building was originally to contain 14 units, but that two units were purchased by one individual who had them combined into one very large unit. He commented that he believes the sign will add character to the building.

Being no further questions or comments, Steve Lichtenfeld made a motion to approve per staff recommendation. The motion was seconded by Debbie Igielnik and unanimously approved by the members.

## TRANSIT ORIENTED OVERLAY ZONING DISTRICT REGULATIONS

Catherine Powers commented that these regulations have been reviewed and discussed for almost a year now and that most recently, language regarding LEED has been added. She reminded the members that these overlay districts still have their base zoning, but that the maximum height and FAR differs from that contained in the base zoning regulations.

Chairman Sanger asked for clarification as to what FAR means.

Catherine Powers indicated that FAR (Floor Area Ratio) is a comparison of the overall lot area to the square footage of the structure on the lot. She stated the higher the ratio, the larger the building and that a FAR of 1.5 would represent a smaller building. She stated that the minimum 3.0 FAR proposed for these districts is a way to encourage density. She indicated that the Clayton on the Park building has a FAR of about 22.0.

Scott Wilson asked the largest FAR in Clayton.

Catherine Powers indicated that it would probably have to be the Plaza in Clayton project, with a FAR of about 27.0.

Chairman Sanger commented that a 3.0 FAR in these areas is nothing and that the 3.0 is a starting FAR, not an ending FAR. He stated that with a PUD (Planned Unit Development), an increase in FAR is allowed anyway.

Debbie Igielnik asked for a brief reminder of an example of a private/public development.

Mike Schoedel indicated that in a public/private development, the City looks at creating a public/private partnership by the use of economic development tools such as 353 (tax abatement), TDD (Transit Development District) or TIF (tax increment financing). Additionally, the City can partner on streetscape improvements.

Catherine Powers reiterated that the City is looking to encourage/spur development in these areas.

Marc Lopata stated he likes the LEED language, but if it is the intent to require certification, then he suggests the language be changed to read: "Development must demonstrate the use of design and construction techniques that are environmentally sustainable *by certification* through a nationally recognized third party verification organization such as U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) program or equivalent as determined by the Plan Commission" so as to make the language more clear.

Chairman Sanger asked City Attorney O'Keefe's response to this suggestion.

Marc Lopata advised the members that casinos in Nevada can be LEED certified.

A discussion regarding smoking ensued. Marc Lopata stated that smoking areas must be isolated.

Catherine Powers asked about residential units.

Marc Lopata stated that smoking is only allowed in the private units, not common areas.

Kevin O'Keefe voiced his concern that if the City requires certification, some other body can preclude a project's approval. He added that this would give a non-governmental body the right to say "no" to a project that would otherwise be approved by the City.

Marc Lopata stated that the City would never know if a project is certifiable unless all submittals are turned in to and reviewed by the City. He stated that other cities impose penalties for non-certification.

Kevin O'Keefe indicated that he wants to preserve the City's discretionary authority.

Catherine Powers reminded that PUDs are governed by an ordinance.

Kevin O’Keefe referred to a project’s requirement to obtain approval from MSD versus an approval from a private organization.

Jim Liberman stated that there is a timing issue here. He stated that certification is applied for after a project is complete.

Marc Lopata asked if it is the City’s intention to require certification.

Catherine Powers stated that the intent is for sustainable development and the need for a third party to certify that it is.

Marc Lopata stated there is a delay; up to 90 days after the job is complete.

Jason Jaggi mentioned that there is a pre-certification process.

Marc Lopata agreed. He stated that we can take their word at application time and if they do not get certification, then a financial penalty can be assessed.

Scott Wilson stated that it would have to be a substantial fine.

Marc Lopata indicated that in Seattle, if a project loses one point out of 35 points, then 1/35<sup>th</sup> of the construction cost is assessed in fines. He stated that he has not seen a project that cannot achieve certification and that the effort would have to be completely abandoned to not get certified.

Jim Liberman stated he does not want to be at the mercy of LEED.

Marc Lopata stated that most cities are going LEED and that there are at least 10 other cities that have LEED Ordinances.

Steve Lichtenfeld asked what the incentives are.

Marc Lopata stated the incentive is that they get to do a TOD.

Chairman Sanger agreed with the assessment of a financial penalty. He asked what Seattle does with the money.

Marc Lopata indicated that they have a city sustainability fund.

Chairman Sanger asked if the intent is to get compliance or get certification.

Catherine Powers stated that it is staff’s intention to have both.

Scott Wilson commented that if they receive certification, they must already have compliance.

Chairman Sanger commented that if we require certification, then we must have a penalty for non-compliance.

Jim Liberman stated that he does not want to lose a project simply because the developer is not willing to get LEED certification.

Chairman Sanger commented that this is not a “fad” and is becoming more important.

Marc Lopata stated there should be no incentives if there is no LEED certification.

Jim Liberman stated that he does not want to be at a competitive disadvantage.

Scott Wilson indicated that certification costs are less than one may think.

Mike Schoedel stated that if we want sustainable development, then we need the requirement.

Marc Lopata stated that we (Clayton) should be the first City in Missouri to require LEED certification.

Catherine Powers reminded the members that the Board of Aldermen also has to approve these regulations and that public hearings at both levels are required.

Kevin O’Keefe stressed that a development cannot be built in these districts unless the regulations are satisfied.

Mike Schoedel asked about remodeling.

Catherine Powers stated that the regulations refer only to new construction.

Marc Lopata stated that he believes it to be Mayor Goldstein’s intent to require LEED developments.

Debbie Igielnik asked about Jim Liberman’s previously stated concerns.

Marc Lopata commented that less desirable developments could be attracted without this requirement.

Steve Lichtenfeld indicated that he has been involved with two projects outside the City that are LEED Certified and that the price difference to do certification is not substantial. He stated that supports the requirement for LEED Certification.

Chairman Sanger asked if he supported a financial penalty for non-compliance.

Steve Lichtenfeld replied “yes”.

Marc Lopata asked that the language be taken from Seattle’s ordinance. He stated if a project receives no points, then the penalty is 1.5% of the total project value.

Chairman Sanger asked if Kevin was concerned that this could be a deal-killer.

Kevin O’Keefe stated that his role is to provide legal advice, not to make decisions.

Steve Lichtenfeld asked for clarification that this requirement would only be for the TOD Districts.

Catherine Powers replied “yes”.

Chairman Sanger asked if the next step is to schedule a public hearing.

Marc Lopata asked that the language be revised per the discussion this evening.

Catherine Powers noted that there is no language in the City’s Zoning Ordinance that allows for a penalty to be imposed and as such, this goes against the existing Zoning Ordinance language.

Chairman Sanger commented that certification is achieved after a building/project is completed and occupancy permits issued.

Marc Lopata reminded everyone that there is a pre-certification process (only for core and shell).

Chairman Sanger asked staff to revise the language per tonight’s discussion and bring the documents back for further review before setting a public hearing.

Chairman Sanger asked if anyone in the audience had any questions or comments.

Mr. Jeff Gershman, Attorney representing the purchasers of the Shady Oak Theater indicated his client’s consideration of other options for the site. He stated it has been empty for 8 years; the second floor next door has been empty for 5 years and the ground floor retail empty for 2 years. He stated his client is considering demolishing the Shady Oak Theater and replacing it with a parking structure, similar to the one behind Oceano Bistro. He stated the TOD District Regulations seem to be designed to control larger developments and his concerns are the requirement for a PUD and that the TOD changes parking lots to a conditional use. He stated he hopes before these documents are finalized, that they are allowed to be submitted under a more streamlined process.

Catherine Powers stated that these regulations are designed for TODs and that she is not sure that a parking structure fits the definition of a TOD. She stated that there still is the possibility that a surface lot could be constructed under a conditional use permit and that the PUD requirement is not new; it has been in place for 7 – 8 years.

Chairman Sanger asked how a surface lot could comply with (b) “Development must provide a linkage between the development and the Station, if one does not currently exist.”

Catherine Powers stated that sidewalks provide linkage.

Chairman Sanger asked if the intent of the areas is to provide a linkage from the projects to the MetroLink Stations.

Catherine Powers replied “yes”.

Chairman Sanger asked that the language be revised per discussions this evening and the documents brought back for further review.

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Chairman Sanger asked Mike Schoedel if this was going to be his last meeting.

Mike Schoedel indicated that he may attend the next meeting.

Being no further business for the Plan Commission/Architectural Review Board, this meeting adjourned at 6:30 p.m.

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Recording Secretary